

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2005-0413, State of New Hampshire v. Joseph Bissonnette, Jr., the court on September 11, 2006, issued the following order:

The defendant, Joseph Bissonnette, Jr., appeals his conviction for operating a motor vehicle after being certified as a habitual offender. He argues that the trial court erred in precluding his testimony about an earlier arrest because it was probative of his mental state, and in instructing the jury on notice.

Among other things, the defendant faults the court's instruction regarding the receipt of notice of his certification hearing. The receipt of notice, however, was not a contested issue at trial. Based upon the record before us, we affirm. See State v. Sawtell, 152 N.H. 177, 179 (2005) (trial court's decision on admission of evidence reviewed under sustainable exercise of discretion standard); State v. Weeks, 140 N.H. 463, 467 (1995) (affirming trial court's decision to exclude evidence to avoid trial within a trial); State v. Lamprey, 149 N.H. 364, 366 (2003) (scope and wording of jury instructions within discretion of trial court and evaluated on appeal by interpreting them in their entirety).

Affirmed.

DALIANIS, DUGGAN and HICKS, JJ., concurred.

**Eileen Fox,
Clerk**